

### **REMARKS**

Claims 1 and 3-8 are pending in this application. By this Amendment, claims 1 and 3-8 are amended and claim 2 is canceled. Claims 1 and 3 are amended to address rejections under 35 U.S.C. 112, and claims 1 and 3-8 are amended to replace the phrase “characterized in that” with the word “wherein” and to remove reference numbers corresponding to the figures from the claims.

No new matter is added to the application by this Amendment. The features added to claim 1 find support within canceled claim 2, as originally filed.

Reconsideration of the application is respectfully requested.

#### **I. Rejections Under 35 U.S.C. 112**

Claims 1 and 3 were rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite. These rejections are respectfully traversed.

The Patent Office alleges that claim 1 (a) includes the feature “the carcass” which is not correct terminology, (b) uses the term “preferably” which is indefinite, and (c) is unclear as to whether Applicants intended to claim the combination of the damping device and the hinge or only the damping device. Additionally, the Patent Office alleges that claim 3 is indefinite because the term “preferably” is included in the claim. Applicants respectfully disagree with the allegations by the Patent Office.

With respect to the feature “the carcass,” Applicants submit that this feature is the correct terminology. Enclosed is a printout for the definition of “carcass” from the Merriam-

Webster.com website. As set forth in the fourth definition for “carcass” in the printout, “carcass” is defined as meaning “the underlying structure or frame of something (as of a piece of furniture)”. Applicants submit that use of the term “carcass” recited in the claims is correct and definite in view of the subject matter of the present claims.

Claim 1 was amended to be directed to “a combination of a damping device and a hinge”. Moreover, claims 1 and 3 were amended to remove the term “preferably” from the claims as suggested by the Patent Office. Applicants submit that amended claims 1 and 3 are clear and definite and overcome the rejections under 35 U.S.C. 112, second paragraph.

Thus, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. 112, second paragraph.

## **II. Rejection Under 35 U.S.C. §102**

Claim 1 was rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 7,275,284 to Lautenschläger et al. (hereinafter “Lautenschläger”). This rejection is respectfully traversed.

The Patent Office alleges that Lautenschläger teaches each and every feature recited in claim 1. Applicants respectfully disagree with the allegations by the Patent Office.

Amended independent claim 1 incorporates the features of canceled claim 2 which was not rejected under 35 U.S.C. §102(b) as being anticipated by Lautenschläger. By failing to reject canceled claim 2 under 35 U.S.C. §102(b) relying on Lautenschläger, the Patent Office acknowledges that the features of canceled claim 2 are not disclosed, taught or suggested by

Lautenschläger.

Because the features of amended independent claim are neither taught nor suggested by Lautenschläger, Lautenschläger cannot anticipate, and would not have rendered obvious, the features specifically defined in claim 1.

For at least these reasons, claim 1 is patentably distinct from and/or non-obvious in view of Lautenschläger. Reconsideration and withdrawal of the rejection of the claim under 35 U.S.C. §102(b) are respectfully requested.

### **III. Rejections Under 35 U.S.C. 103**

#### **A. Lautenschläger in view of Grass**

Claims 4-8 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Lautenschläger in view of U.S. Patent No. 4,870,716 to Grass. This rejection is respectfully traversed.

Amended claim 1 incorporates the features of canceled claim 2, which was not rejected under 35 U.S.C. §103(a) as being unpatentable over Lautenschläger in view of Grass. By failing to reject canceled claim 2 in view of Lautenschläger and Grass, the Patent Office acknowledges that Lautenschläger and Grass, taken singly or in combination, fail to teach or suggest the features of amended claim 1.

Thus, Lautenschläger and Grass, taken singly or in combination, do not teach or suggest a damping device that comprises a damper housing provided on the door leaf mounting part, wherein the damper housing is a separate component with laterally projecting fixing flanges

fixable on the fixing flanges of the door leaf mounting part. Moreover, Lautenschläger and Grass, taken singly or in combination, fail to teach or suggest that at least some areas of the fixing flanges of the damper housing are shaped to correspond substantially to an outer boundary of the fixing flanges of the door leaf mounting part and have, in an edge region, a projecting narrow edge portion adapted to engage edges of the fixing flanges of the door leaf mounting part in a prescribed fixing position on the door leaf mounting part, wherein fixing means are provided for releasable connection of the projecting narrow edge portion of the fixing flanges of the damper housing to the edges of the fixing flanges of the door leaf mounting part as required by claim 1.

Because the features of independent claim 1 are neither taught nor suggested by Lautenschläger and Grass, taken singly or in combination, these references would not have rendered obvious to one of ordinary skill in the art the features specifically defined in claim 1 and its dependent claims.

For at least these reasons, claims 4-8 are patentable over Lautenschläger and Grass. Thus, withdrawal of the rejection of claims 4-8 under 35 U.S.C. §103(a) is respectfully requested.

**B. Lautenschläger in view Niessner et al.**

Claims 2 and 3 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Lautenschläger in view of U.S. Patent No. 5,829,814 to Niessner et al. (hereinafter “Niessner”). This rejection is respectfully traversed.

In view of the cancellation of claim 2, this rejection is moot with respect to that claim. However, canceled claim 2 has been incorporated into amended claim 1, from which claim 3 depends.

The Patent Office acknowledges that Lautenschläger fails to teach or suggest providing an edge region with projecting narrow edge portions. The Patent Office introduces Niessner as allegedly teaching a cover with fixing flanges and projecting narrow edge portions. The Patent Office alleges that it would have been obvious to one of ordinary skill in the art to provide the fixing flanges of Lautenschläger with the edge portions of Niessner because lug clips as taught by Niessner are well known to be an easily usable, repeatable instable and removeable coupling method. Applicants respectfully disagree with the allegations by the Patent Office.

As set forth above with respect to the 102(b) rejection relying solely on Lautenschläger, Lautenschläger fails to teach or suggest a damping device having a damper housing which is provided on the door leaf mounting part and which is provided with laterally projecting fixing flanges which can be fixed on the fixing flanges of the door leaf mounting part. Instead, Lautenschläger teaches a damper unit attached to a support arm of the supporting wall mounting part (see Figs 1 and 2 and col. 5, line 4). Niessner fails to remedy the deficiencies of Lautenschläger because Niesser does not teach or suggest a damping device having a damper housing which is provided on the door leaf mounting part and which is provided with laterally projecting fixing flanges which can be fixed on the fixing flanges of the door leaf mounting part.

Thus, Lautenschläger and Niesser, taken singly or in combination, fail to teach or suggest

a damping device having a damper housing which is provided on the door leaf mounting part and which is provided with laterally projecting fixing flanges which can be fixed on the fixing flanges of the door leaf mounting part as required by claim 1, from which claim 3 depends.

Because these features of independent claim 1 are not taught or suggested by Lautenschläger and Niessner, taken singly or in combination, these references would not have rendered the features of claim 1 obvious to one of ordinary skill in the art.

For at least these reasons, claim 3 is patentable over the cited references. Thus, withdrawal of the rejection under 35 U.S.C. §103(a) is respectfully requested.

#### **IV. Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1 and 3-8 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Early and favorable action is earnestly solicited.

#### **CONDITIONAL PETITION FOR EXTENSION OF TIME**

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefor. The Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

Application No. 10/598,754  
Amendment Under 37 C.F.R. §1.111 Filed On July 17, 2009

**ADDITIONAL FEE**

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

Respectfully submitted,  
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